

SENATE JOURNAL

OF THE

IDAHO LEGISLATURE

SECOND REGULAR SESSION
FIFTY-EIGHTH LEGISLATURE

TWENTY-SIXTH LEGISLATIVE DAY
FRIDAY, FEBRUARY 3, 2006

Senate Chamber

President Risch called the Senate to order at 11 a.m.

Roll call showed all members present except Senators Brandt and Werk, absent and formally excused by the Chair; and Senators Cameron, Langhorst, Little, and Schroeder, absent and excused.

Prayer was offered by Chaplain Don Hardenbrook.

The Pledge of Allegiance was led by Mickenzie Stuart, Page.

The Senate advanced to the Third Order of Business.

Reading and Correction of the Journal

The JUDICIARY AND RULES Committee reports that the Senate Journal of the proceedings of February 2, 2006, was read and approved as corrected.

DARRINGTON, Chairman

There being no objection, the report was adopted and ordered filed in the office of the Secretary of the Senate.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Sixth Order of Business.

Reports of Standing Committees

February 3, 2006

The JUDICIARY AND RULES Committee reports that **S 1335, S 1336, S 1337, S 1338, S 1339, S 1340, S 1341, S 1342, S 1343, and S 1344** have been correctly printed.

DARRINGTON, Chairman

S 1335, S 1336, and S 1337 were referred to the Judiciary and Rules Committee.

S 1338, S 1339, S 1340, S 1341, S 1342, and S 1343 were referred to the Health and Welfare Committee.

S 1344 was referred to the Education Committee.

February 2, 2006

The JUDICIARY AND RULES Committee reports that **S 1305, S 1306, and S 1307** have been correctly enrolled.

DARRINGTON, Chairman

The President signed Enrolled **S 1305, S 1306, and S 1307** and ordered them transmitted to the House for the signature of the Speaker.

February 2, 2006

The JUDICIARY AND RULES Committee reports that Enrolled **S 1277 and S 1278** were delivered to the Office of the Governor at 2 p.m., February 2, 2006.

DARRINGTON, Chairman

The report was ordered filed in the office of the Secretary of the Senate.

February 2, 2006

The JUDICIARY AND RULES Committee reports that Enrolled **SJM 113** was delivered to the Office of the Secretary of State at 2:06 p.m., February 2, 2006.

DARRINGTON, Chairman

The report was ordered filed in the office of the Secretary of the Senate.

February 3, 2006

The COMMERCE AND HUMAN RESOURCES Committee reports out **S 1314, S 1315, H 405, and H 406** with the recommendation that they do pass.

ANDREASON, Chairman

S 1314, S 1315, H 405, and H 406 were filed for second reading.

February 2, 2006

The COMMERCE AND HUMAN RESOURCES Committee reports it has had under consideration the Gubernatorial appointment listed below and the Committee recommends that said appointment be confirmed by the Senate:

Jeff Cilek to the Public Employees Retirement System of Idaho, term to expire July 1, 2010.

ANDREASON, Chairman

The Gubernatorial appointment was referred to the Tenth Order of Business, Motions and Resolutions, and ordered held at the Secretary's desk for one legislative day.

February 3, 2006

The STATE AFFAIRS Committee reports out **S 1317** with the recommendation that it do pass.

BURTENSCHAW, Chairman

S 1317 was filed for second reading.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Eighth Order of Business.

Messages from the Governor

Senator Cameron was recorded present at this order of business.

February 2, 2006

The Honorable James E. Risch
President of the Senate
Idaho Legislature

Dear Mr. President:

I have the honor to inform you that Jeffrey L. Bowen of Soda Springs, Idaho, was appointed as a member of the Idaho Bingo-Raffle Advisory Board to serve a term commencing January 7, 2005, and expiring January 7, 2008.

This appointment was made subject to confirmation by the Senate. Notice of appointment is hereby given.

Sincerely,
/s/ Dirk Kempthorne
Governor

The correspondence was ordered filed in the office of the Secretary of the Senate.

The Gubernatorial appointment was referred to the State Affairs Committee.

February 2, 2006

The Honorable James E. Risch
President of the Senate
Idaho Legislature

Dear Mr. President:

I have the honor to inform you that Robin Sandy of Boise, Idaho, was appointed as a member of the Commission on Pardons and Parole to serve a term commencing January 1, 2006, and expiring January 1, 2009.

This appointment was made subject to confirmation by the Senate. Notice of appointment is hereby given.

Sincerely,
/s/ Dirk Kempthorne
Governor

The correspondence was ordered filed in the office of the Secretary of the Senate.

The Gubernatorial appointment was referred to the Judiciary and Rules Committee.

The Senate advanced to the Ninth Order of Business.

Messages from the House

February 2, 2006

Mr. President:

I transmit herewith **H 462**, **H 464**, and **H 413** which have passed the House.

JUKER, Chief Clerk

H 462, **H 464**, and **H 413** were filed for first reading.

February 2, 2006

Mr. President:

I transmit herewith Enrolled **H 440** for the signature of the President.

JUKER, Chief Clerk

The President signed Enrolled **H 440** and ordered it returned to the House.

February 2, 2006

Mr. President:

I return herewith **SJM 114** which has passed the House.

JUKER, Chief Clerk

SJM 114 was referred to the Judiciary and Rules Committee for enrolling.

The Senate advanced to the Tenth Order of Business.

Motions and Resolutions

Senators Langhorst and Schroeder were recorded present at this order of business.

The President announced the Transportation Committee report relative to the Gubernatorial appointment of Gary Blick was before the Senate for final consideration, the question being, "Shall the report be adopted?"

On motion by Senator Gannon, seconded by Senator Marley, the Gubernatorial appointment of Gary Blick as a member of the Idaho Transportation Board was confirmed by voice vote.

The President declared the report adopted and directed the Secretary of the Senate to prepare a letter of the Gubernatorial

appointment confirmation for his signature, attested to by the Secretary, to be transmitted to the Governor informing him of the action of the Senate.

The Senate advanced to the Eleventh Order of Business.

**Introduction, First Reading and Reference of Bills,
House Petitions, Resolutions, and Memorials**

S 1345

**BY COMMERCE AND HUMAN RESOURCES
COMMITTEE**

AN ACT

RELATING TO THE PUBLIC EMPLOYEE RETIREMENT SYSTEM; AMENDING SECTION 59-1356, IDAHO CODE, TO PROVIDE THAT PERSI RETIREES WHO RETIRE WITHOUT EARLY RETIREMENT REDUCTIONS AND ARE REEMPLOYED AFTER BEING RETIRED FOR AT LEAST SIX MONTHS MAY ELECT TO CONTINUE RECEIVING RETIREMENT BENEFITS AND NOT ACCRUE ADDITIONAL SERVICE IF THEY ARE SUBSEQUENTLY ELECTED TO A PUBLIC OFFICE OTHER THAN AN OFFICE HELD PRIOR TO RETIREMENT.

S 1346

BY TRANSPORTATION COMMITTEE

AN ACT

RELATING TO DRIVER'S LICENSE INSTRUCTION PERMITS; AMENDING SECTION 49-110, IDAHO CODE, TO REVISE THE EXPIRATION DATE OF A CLASS D DRIVER'S TRAINING INSTRUCTION PERMIT, TO PROVIDE AN ALTERNATE EXPIRATION DATE FOR A CLASS D INSTRUCTION PERMIT IF APPLICABLE AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTIONS 49-302 AND 49-303, IDAHO CODE, TO PROVIDE CORRECT CODE REFERENCES; AMENDING SECTION 49-305, IDAHO CODE, TO PROVIDE AN ALTERNATE EXPIRATION DATE FOR A CLASS D INSTRUCTION PERMIT UNDER SPECIFIED CONDITIONS; AND AMENDING SECTION 49-307, IDAHO CODE, TO REVISE THE FEE FOR A CLASS D DRIVER'S TRAINING INSTRUCTION PERMIT, TO PROVIDE THAT THE FEE SHALL BE PAID BY EVERY ENROLLEE OF A CLASS D DRIVER'S TRAINING COURSE, TO REVISE THE DISTRIBUTION OF FEES, TO DELETE THE DRIVER'S TRAINING COURSE FEE CHARGED BY A COMMERCIAL BUSINESS AND DISTRIBUTION OF SUCH FEE, TO PROVIDE FOR EXPIRATION OF A CLASS D DRIVER'S TRAINING INSTRUCTION PERMIT, TO REQUIRE THE INSTRUCTOR OF THE COURSE TO HAVE THE DRIVER'S TRAINING INSTRUCTION PERMIT IN HIS IMMEDIATE POSSESSION DURING DRIVING INSTRUCTION, TO PROVIDE THAT A SUPERVISED INSTRUCTION PERMIT SHALL BECOME A CLASS D INSTRUCTION PERMIT IF THE PERMITTEE REACHES THE AGE OF SEVENTEEN WHILE OPERATING ON A CLASS D SUPERVISED INSTRUCTION PERMIT AND TO PROVIDE FOR EXPIRATION OF THE CLASS D INSTRUCTION PERMIT, TO CLARIFY THE REQUIREMENTS FOR OPERATING A CLASS D VEHICLE WITH A CLASS D SUPERVISED INSTRUCTION PERMIT AND TO PROVIDE CORRECT CODE REFERENCES.

S 1347

BY TRANSPORTATION COMMITTEE

AN ACT

RELATING TO COMMERCIAL DRIVER'S LICENSES; AMENDING SECTION 49-109, IDAHO CODE, TO REDEFINE "HAZARDOUS MATERIAL" AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 49-120, IDAHO CODE, TO REDEFINE "SERIOUS TRAFFIC VIOLATION"; AMENDING SECTION 49-240, IDAHO CODE, TO PROVIDE THAT ANY BOND FORFEITURE FOR A TRAFFIC OFFENSE SHALL BE TREATED AS A CONVICTION FOR PERSONS HOLDING A COMMERCIAL DRIVER'S LICENSE; AMENDING SECTION 49-301, IDAHO CODE, TO PROVIDE THAT NO PERSON SHALL OPERATE A COMMERCIAL MOTOR VEHICLE UNLESS SUCH PERSON COMPLIES WITH SPECIFIED CONDITIONS REGARDING A COMMERCIAL DRIVER'S LICENSE AND TO MAKE TECHNICAL CHANGES; AMENDING SECTION 49-315, IDAHO CODE, TO PROVIDE CORRECT REFERENCES TO FEDERAL REGULATIONS; AMENDING SECTION 49-321, IDAHO CODE, TO EXPAND THE DUTIES AND AUTHORITY OF THE IDAHO TRANSPORTATION DEPARTMENT IN FILING ACCIDENT REPORTS AND ABSTRACTS OF COURT RECORDS OF CONVICTION AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 49-323, IDAHO CODE, TO REQUIRE THE IDAHO TRANSPORTATION DEPARTMENT TO FORWARD RECORDS OF IDAHO CONVICTIONS, SUSPENSIONS, DISQUALIFICATIONS AND REVOCATIONS OF NONRESIDENTS TO NONRESIDENTS' STATE OF RESIDENCY; AMENDING SECTION 49-335, IDAHO CODE, TO PROVIDE THAT A COMMERCIAL MOTOR VEHICLE DRIVER SHALL BE DISQUALIFIED FOR NOT LESS THAN ONE YEAR FOR USING ANY MOTOR VEHICLE IN THE COMMISSION OF A FELONY AND TO PROVIDE A CIVIL PENALTY FOR VIOLATION OF AN OUT-OF-SERVICE ORDER; AMENDING SECTION 49-337, IDAHO CODE, TO IMPOSE AN ADDITIONAL CIVIL PENALTY UPON ANY EMPLOYER CONVICTED OF KNOWINGLY ALLOWING A VIOLATION OF AN OUT-OF-SERVICE ORDER; AND AMENDING SECTION 49-1416, IDAHO CODE, TO PROVIDE THAT COURTS SHALL NOT ACT TO PREVENT A CONVICTION FROM APPEARING ON THE DRIVING RECORD OF ANY PERSON WHO HOLDS A COMMERCIAL DRIVER'S LICENSE.

S 1348

BY TRANSPORTATION COMMITTEE

AN ACT

RELATING TO HIGHWAY DISTRICTS; AMENDING SECTION 40-1304, IDAHO CODE, TO PROVIDE FOR DETERMINATION AND DECLARATION OF A VACANCY IN THE OFFICE OF HIGHWAY DISTRICT COMMISSIONER AND TO MAKE TECHNICAL CHANGES; AND AMENDING SECTION 40-1305C, IDAHO CODE, TO PROVIDE QUALIFICATIONS FOR THE OFFICE OF HIGHWAY DISTRICT COMMISSIONER AND TO MAKE A TECHNICAL CHANGE.

S 1349

BY TRANSPORTATION COMMITTEE

AN ACT

RELATING TO THE BASIC RULE AND MAXIMUM SPEED LIMITS; AMENDING SECTION 49-654, IDAHO CODE, TO DELETE THE MAXIMUM SPEED LIMIT ON INTERSTATE

HIGHWAYS FOR VEHICLES WITH FIVE OR MORE AXLES OPERATING AT A GROSS WEIGHT OF MORE THAN TWENTY-SIX THOUSAND POUNDS.

S 1350

BY STATE AFFAIRS COMMITTEE

AN ACT

RELATING TO COUNTY RECORDER'S FEES; AMENDING SECTION 31-3205, IDAHO CODE, TO PROVIDE A FEE FOR DUPLICATION OF RECORDED DOCUMENTS USING ELECTRONIC MEANS, TO PROVIDE A CHARGE FOR ADMINISTRATIVE OR LABOR COSTS, TO CLARIFY PAGE SPECIFICATIONS AND TO REFORMAT THE SECTION.

S 1351

BY STATE AFFAIRS COMMITTEE

AN ACT

RELATING TO REGULATION OF ALCOHOL; AMENDING CHAPTER 6, TITLE 23, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 23-616, IDAHO CODE, TO DEFINE TERMS, TO PROHIBIT ALCOHOL WITHOUT LIQUID DEVICE WITH EXCEPTIONS, TO PROVIDE RULES, TO PROVIDE PENALTIES AND TO PROVIDE THAT AN ALCOHOL WITHOUT LIQUID DEVICE THAT IS NOT AUTHORIZED IS DECLARED TO BE A PUBLIC NUISANCE AND SHALL BE REFERRED TO AS A LIQUOR NUISANCE.

S 1345, S 1346, S 1347, S 1348, S 1349, S 1350, and S 1351 were introduced, read the first time at length, and referred to the Judiciary and Rules Committee for printing.

H 462 and **H 464**, by Transportation and Defense Committee, were introduced, read the first time at length, and referred to the Transportation Committee.

H 413, by State Affairs Committee, was introduced, read the first time at length, and referred to the State Affairs Committee.

The Senate advanced to the Twelfth Order of Business.

Second Reading of Bills

Senator Little was recorded present at this order of business.

S 1302, S 1303, and S 1311, by Judiciary and Rules Committee, were read the second time at length and filed for third reading.

S 1299, by Resources and Environment Committee, was read the second time at length and filed for third reading.

S 1276, by Stennett, Marley, Malepeai, Werk, Kelly, Langhorst, and Burkett, was read the second time at length and filed for third reading.

The Senate advanced to the Thirteenth Order of Business.

Third Reading of Bills

S 1264 was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Keough arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Andreason, Broadsword, Bunderson, Burkett, Burtenshaw, Cameron, Coiner, Compton, Corder, Darrington, Davis, Fulcher, Gannon, Geddes, Goedde, Hill, Jorgenson, Kelly, Keough, Langhorst, Little, Lodge, Malepeai, Marley, McGee, McKenzie, Richardson, Schroeder, Stegner, Stennett, Sweet, Williams. Total - 32.

NAYS--None.

Absent and excused--Brandt, Pearce, Werk. Total - 3.

Total - 35.

Whereupon the President declared **S 1264** passed, title was approved, and the bill ordered transmitted to the House.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Fifteenth Order of Business.

Miscellaneous Business

On motion by Senator Davis, seconded by Senator Stennett, by voice vote the Senate adjourned at 11:35 a.m. until the hour of 11 a.m., Monday, February 6, 2006.

JAMES E. RISCH, President

Attest: JEANNINE WOOD, Secretary